

REMARKS

Claims 1-8 are pending in the application. Claim 1 has been amended to indicate that the polyether urethane containing composition includes from 40 to 80 percent by weight based on polyether urethanes, of a polyether urethane containing one reactive silane group. Support for the amendment can be found at page 1, lines 7-11, page 16, lines 10-20, and the examples, particularly Table 2 on page 22. Claims 3 and 4 have been amended to correct typographical errors. No new matter is added by way of the amendments.

Rejections Under 35 U.S.C. § 103(A)

Claims 1-8 stand rejected under 35 U.S.C. § 103(A) as being obvious over U.S. Patent No. 6,265,517 B1 to Stuart (hereinafter "Stuart"). The Examiner asserts that Stuart discloses the claimed polyether urethane containing composition with the exception of the degree of unsaturation, which would have been obvious based on the disclosure in Stuart of using Acclaim polyols.

The present invention is directed to a polyether urethane containing composition that includes from 40 to 80 percent by weight based on polyether urethanes in the composition, of a polyether urethane containing one reactive silane group and one or more polyether segments having a number average molecular weight of 1000 to 15,000 and a maximum total degree of unsaturation of less than 0.04 milliequivalents/g (meq/g).

Stuart discloses a silylated polyether urethane prepolymer prepared from endcap precursors containing dialkyl maleates having alkyl groups containing greater than four carbon atoms. The polyether urethane prepolymer is the adduct of at least one polyol and at least one diisocyanate with a ratio of equivalents of isocyanate to polyol of about 1.3:1 to about 2.0:1 (col. 5, lines 47-61). The amino groups of the endcap precursor react with the pendant isocyanate groups of the prepolymer to form urea and urethane segments in the silylated prepolymer (col. 7, lines 46-50). Diols are used (less than 31% monool content) so as to form silylated polyether urethane prepolymers containing two or more silylated endcap groups in order to maximize crosslinking and cure rates. A monool content of less than 4% is preferred (col. 6, lines 10-35).

As indicated above, Stuart teaches away from including monools, and therefore teaches away from polyether urethanes containing one reactive silane group, which require a monool being present for formation.

Stuart discloses diols with monool "impurity" as high as 31%.

However, Stuart does not disclose or in any way suggest polyether urethane containing compositions that includes from 40 to 80 percent by weight based on polyether urethanes in the composition, of a polyether urethane containing one reactive silane group as in the amended claims.

As Stuart does not disclose, suggest or motivate, and in fact teaches away from the claimed polyether urethane containing compositions, Stuart does not render Claims 1-8 obvious. Therefore, the rejection of Claims 1-8 under 35 U.S.C. § 103(a) should be withdrawn.

Rejections Under 35 U.S.C. § 103(A)

Claims 1-8 stand provisionally rejected under 35 U.S.C. § 102(e) as being anticipated by copending Application Ser. No. 10/690,751 and copending Application Ser. No. 10/690,955, which have common inventors.

The cited copending applications do not disclose or suggest the limitation that the polyether urethane containing compositions that includes from 40 to 80 percent by weight based on polyether urethanes in the composition, of a polyether urethane containing one reactive silane group as in the amended claims. Thus, the provisional rejection under 35 U.S.C. § 102(e) should be withdrawn.

If the Examiner is unpersuaded, Applicants request that the Examiner hold the provisional rejection under 35 U.S.C. § 102(e) in abeyance until such time as one or both of the applications publishes.

Nonstatutory Double Patenting Rejections

Claims 1-8 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-25 of Application Serial No. 10/690,955, Claims 1-25 of Application Serial No. 10/690,954, and Claims 1-17 of Application Serial No. 10/690,956.

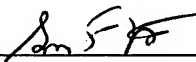
The cited copending applications do not disclose or suggest the limitation that the polyether urethane containing compositions include from 40 to 80 percent by weight based on polyether urethanes in the composition, of a polyether urethane containing one reactive silane group as in the amended claims. Thus, the obviousness-type double patenting rejections should be withdrawn.

If the Examiner is unpersuaded, Applicants request that the Examiner hold the provisional obviousness-type double patenting rejections in abeyance until such time as claims have been allowed in one or more of the subject applications.

CONCLUSION

In view of the above amendments and remarks, Applicants assert that the claims are in form for allowance. Therefore, reconsideration of the rejections and allowance of Claims 1-8 are respectfully requested.

Respectfully submitted,

By 

Gary F. Matz
Agent for Applicants
Reg. No. 45,504

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3897
FACSIMILE PHONE NUMBER:
(412) 777-3902

/jme/GM/GM0155